

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

AARON WILLIAMS, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

PILLPACK LLC,

Defendant.

No. 3:19-cv-05282-RBL

DECLARATION OF DANIEL J.
BARSKY IN SUPPORT OF
PILLPACK LLC'S OPPOSITION
TO CLASS CERTIFICATION

I, Daniel J Barsky, hereby declare as follows:

1. I am the General Counsel, Chief Compliance Officer, and Secretary for Fluent, Inc. and its wholly owned subsidiaries (collectively "Fluent"), and have been employed in this role since 2013. The information in this Affidavit is based on my own personal knowledge and submit this in connection with the complaint in Williams v. PillPack.

2. I am familiar with Fluent's proprietary ad serving and lead generation system ("System") and the consumer facing websites operated by Fluent and its wholly owned subsidiaries and Fluent's database of System and user information ("Database").

3. Fluent maintains its Database in the ordinary course of its business operations as part of its business records. The Database is maintained on redundant servers located in Ashburn, Virginia under a Hosting Services Agreement with Rackspace US, Inc. and in the cloud with AWS.

4. Fluent owns and operates, among other consumer facing websites, RewardZoneUSA.com, SurveyVoices.com and National Consumer Center.com. On these

1 websites, consumers register and provide their names, addresses and phone numbers and are
2 offered the opportunity to provide prior express written consent within the meaning of the
3 Telephone Consumer Protection Act (“TCPA”) to receive telemarketing calls and text
4 messages from Fluent and its “Marketing Partners” (such consent is referred to as “TCPA
5 Consent”).

6 5. Fluent conducted multiple campaigns where it gathered leads of users who had
7 provided TCPA Consent for Yodel Technologies LLC (“Yodel”).

8 6. I asked my IT team to research the user experience and information stored in the
9 Database with respect to one such campaign with a Fluent generated Campaign ID of 10863
10 (the “Yodel 10863 Campaign”) that Fluent conducted for Yodel from March 2018 to May 2019
11 (“Relevant Period”). The Yodel 10863 Campaign solicited users to provide TCPA Consent to
12 be contacted by “Support First” among other Marketing Partners.

13 7. The following is a representative sample of a page used to solicit TCPA Consent
14 that was used for the Yodel 10863 Campaign during the Relevant Period in which users were
15 offered the opportunity to provide their TCPA Consent:

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17 *[Image on next page]*
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| CONFIRM YOUR INFORMATION to finish your registration | |
|--|--|
| FIRST NAME | LAST NAME |
| <input type="text"/> | <input type="text"/> |
| EMAIL | ZIP CODE |
| <input type="text"/> | <input type="text"/> |
| DATE OF BIRTH | PRIMARY PHONE |
| <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> - <input type="text"/> <input type="text"/> |

(You must be 18 years or older)

By checking the box below I request and consent to receive phone sales calls and text messages - Msg and data rates may apply - from CAC and our [Marketing Partners](#) on the landline or mobile number I provided even if I am on a federal or State do not call registry. I understand these calls may be generated using an autodialer and may contain pre-recorded messages and that consenting is not required to participate in the offers promoted.

For SMS message campaigns: Text STOP to stop and HELP for help. Msg & data rates may apply. Periodic messages; max. 30/month.

☐ **I CONFIRM** that all of my information is accurate and consent to be called and texted as provided above.

Continue >>

8. The following is representative sample of a Marketing Partners list that was hyperlinked to TCPA Consent Pages that included Support First:

[Image on next page]

N - NAMC, National Consumer Center, National Disability, National Magazine Exchange, National Med Group, National Republican Congressional Committee, National Republican Senatorial Campaign Committee, NationalHomeProject.com, Native Media, NextGen Leads, LLC, NOC Solutions, NRCC, NRSC, Nutrisystem, NutrisystemAffiliate, NutrisystemPartner, NutrisystemPub
O - Oasis Financial, Olympus Medical Group Corp, Omni Research, OpenJar, Optima Tax Relief, Optimum Med Equipment Supply, Orthotic Care, Outside the Box, Ovation Credit Repair
P - PA Healthcare Pharmaceutical, PaidToDrive, Pain Away, PainFree, PainHelp, PainMSG, PALMco, LLC, Palo Media Group, Personal Finesse Inc., Pet First Healthcare, PetHelp, Phantasy Lead Source, Pharmacy Group, PhoneDeals, PickMyDegree, PillPack, Pillsavings, Power Source Marketing LLC, Precision Marketing, LLC, Preferred Pharmacy, Premier Student Loan Center, Primary Choice Medical Supplies LLC, Prize Centr, Prize MSG, PrizeCentr, Protect My Car, Protect Your Home, Public IQ, PureTalkUSA
Q - Q3M Insurance Solution, Qualitymedalert.com, Quintessa Marketing
R - Reality Debt Solutions, RecoveryQualifier, Rent2Own, Renttoownenterprise.com, Republican Governor's Association, Republican National Committee, Research Rewards, Residents Energy, LLC, RewardCenter, Rewards4U, RewardsBuck, RewardsMSG, Royal Sea Cruises, Inc., RXAssistProgram, Rxtome
S - SACT, SACT MSG, SafeStreets, SafetyNow, Samples4U, Satellite Country, Save Away, Save Better, Save with Us, SaveAuto, SaveCash, SaveHelp, SaveHome, SaveMobile, SaveMore, SaveMSG, SaveNOW, SaveToday, SavingsDoc, Scholarship Zone, Schools.com, Seafront Marketing, SelectQuote, Senior Care Authority, Service.com Inc, Settlement Marketing Group, LLC, Settlement Marketing Group, LLC., Shore Marketing Group, Simple Health, Simple Health Plans Inc., Simple Insurance Leads, SizzlingCreditCards, Skyline Pharmacy, Sobriety Options, Solar Research Group, Solid Quote, LLC, Spectrum, Sprint, Start A Career Today, Start Fresh, StartACareerToday, FindDreamJobs, StartaCareerToday.com, Student Loan Forgive, StudentHelp, Subscription Ink, Co., Sunrise Communications AG, Support First, Survey Voices, SurveyRedemption, SurveyRedemption.com, SurveyRedemption.com/Research Rewards, SurveyVoices, Sweeps Entry, Sweeps Entry Center, SweepsCraze.com, Sweepstakes Entry Center, SweepstakesADay, SweepstakesEntryCenter, Synergy Attorney Services, Synergy Attorney Services, LLC
T - Talking Customers, Tax Help, Tego, LLC, Teletransform, Inc., Teletree, LLC, TellCare, The Bill Coach, The Bill Wizard, The Credit Pros, The Degree Source, The Ridge Tahoe, The Wellness Center, The-Solar-Project.com, Time 2 Read, Time2Read, Ting.com, T-Mobile International AG, Town Square, TransAmerica, TruGreen, TVDeals, TVNow
U - Uber, Uber Technologies, Inc., Ultimate Medical Academy, United Readers Service, Inc., UpWell Health, US Direct LLC, US Med, Usmedicareonline.com
V - Value Center, Value Central, Value Expert, Verde Energy USA, Inc., Versa Marketing, Verus Healthcare, VeteransMSG, VHMnetwork LLC, Viking Magazine Service, Inc, Visiqua, Vixicom, VoteNow
W - We Can Help, WebDeals, Wellington Rx, WinnerCenter, WinSaveEarn, WirelessDeals
Y - You Save Today Your Diabetic Source

